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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/087,505	03/01/2002	David J. Seagle	RR1764/2348P	4063

35219 7590 05/25/2006

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EXAMINER

DAVIS, DAVID DONALD

ART UNIT	PAPER NUMBER
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2627

DATE MAILED: 05/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding.



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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/087,505
Filing Date: March 01, 2002
Appellant(s): SEAGLE ET AL.

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Jayne R. Mitchell
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed July 11, 2005 appealing from the Office action mailed June 16, 2004.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-11 are rejected under 35 U.S.C. 102(e) as being anticipated by Sasaki (US 6,624,971). As per claims 1 and 6, Sasaki shows in figure 6 a pedestal defined zero throat write head including first pole 7 having a pedestal 27A. The pedestal has a front, a back, a top and a bottom. The back of the pedestal has a recess.60. Recess 60 runs from the top of the pedestal 27A to the bottom of the pedestal 27A. Figure 14 shows a second pole 27C with gap 9, shown in figure 6, separated the pedestal of first pole 7 from a portion of second pole 27C. Sasaki shows in figure 14 second pole 27C having a bottom surface. A portion of the bottom surface extending over pedestal 27A and along gap 9 beyond the back of the pedestal and being substantially flat such that a zero throat height of the write head is defined by the pedestal 27A.

As per claim 7, Sasaki shows a deposited pedestal and a portion of the pedestal removed to form a recess. As per claims 2 and 8, Sasaki also shows in figure 6 recess 60 including a first edge and a second edge. The first and second edges are directly under a portion of second pole 27C. As per claims 3 and 9, Sasaki additionally shows in figures 4A and 6 recess 60 including a first and second edge outside of second pole 27A/27C. As per claims 4 and 10, second pole 27C further includes a nose, as shown in figure 6, with a portion of the pedestal directly under the

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nose. As per claim 5 and 11, Sasaki shows in figure 3A/4A coil 29 between first pole 7 and second pole 27A/27C.

(10) Response to Argument

Appellant asserts in the paragraph bridging pages 4 and 5 the following:

To the extent a pedestal exists in the first pole in Fig. 6 of Sasaki, the pedestal would be the “trim structure” discussed in col. 11, lines 39-43 of Sasaki and depicted in Fig. 6 of Sasaki. Thus, as is shown in figure 6 Sasaki, the trim structure has the same shape as the pole tip of the second pole.

It is unclear as to exactly how the assertion supra is pertinent to the claimed invention. Whether or not Sasaki calls pedestal 27A or a trim structure of anything else is not germane. The inventor of the applied prior art is allowed to be their own lexicographer just as the instant appellant is allowed to do the same. Additionally, whether or not pedestal 27A has the same shape or not is also not germane. Appellant claims a pedestal with a recess, and figure 6 clearly shows, by way of the hatching, that first pole 7 has pedestal 27A. Whether or not there are additional layers on pedestal 27A does not affect the existence of pedestal 27A. The fact the gap 9 has the same shape as the pole tip of the second pole does preclude from being a gap layer. Similarly, the fact that Sasaki calls gap 9 a write gap layer 9 does mean it is unlike the claimed gap in the instant application.

In the paragraph bridging pages 5 and 6, “Appellant respectfully submits that the applied rejections of claims 1 and 6 under 35 U.S.C. § 102 are not proper because the Examiner can not explain why Sasaki teaches or suggest the methods recited in claims 1 and 20.” This assertion is puzzling. The claims require “A method of *providing* pedestal defined zero throat write head . . .”

Sasaski *provides* that which is claim by depicting and describing a pedestal defined zero throat write head.

In the first paragraph on page 7, Appellant states that "Sato states that item 27A is the pole tip that is 'part of' the top, second pole, 27C." Figure 6 of Sato does show and disclose the pole tip portion being apart of the second pole. However, the bottom portion of first pole 7 which is referred to as pedestal 27A is apart of the first pole as designated by the cross hatching.

In the second paragraph on page 7, appellant contends that the pedestal 27A does not have a recess. Again, by way of the cross-hatching or the absence of cross-hatching, figure 6 shows recess 60 on the same level extending around pedestal 27A. Therefore, recess 60 is apart of pedestal 27A.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

David D. Davis

Conferees:

Hoa Thi Nguyen

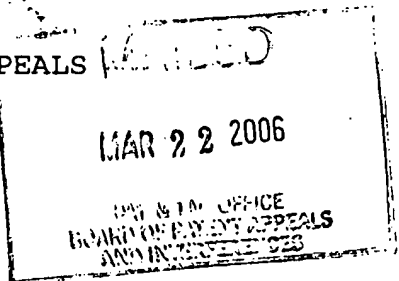
Wayne Young

Brian Miller

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte DAVID J. SEAGLE,
QING LESLIE HE,
and G. VINSON KELLEY



Application No. 10/087,505

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was received electronically at the Board of Patent Appeals and Interferences on March 8, 2006. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing are identified below.

On October 5, 2005, an Examiner's Answer was entered into the record. In the Evidence Relied Upon section, page 3, paragraph 8, the examiner has stated that "No evidence is relied upon by the examiner in the rejection of the claims under appeal." A review of the file reveals that reference to Sasaki (U.S. 6,624,971) was applied to the statement of rejections in the Grounds of Rejection,

paragraph (9) of the examiner's answer. Before further review, the examiner must submit a corrected examiner's answer that will include in the Evidence Relied Upon section, the list of reference mentioned in the statement of rejections. Appropriate correction is required.

Accordingly, it is

ORDERED that the application is returned to the Examiner for:

- 1) vacate the Examiner's Answer mailed October 5, 2005, and issue a revised Examiner's Answer having the missing reference listed under the Evidence Relied Upon section, paragraph (8); and
- 2) for such further action as may be appropriate.

BOARD OF PATENT APPEALS
AND INTERFERENCES

By: 

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Application No. 10/087,505

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